



City of Seattle  
Department of  
Planning and Development  
Diane Sugimura, Director

## Environmentally Critical Areas (ECA) Code and Policy Update Process

### **WE WANT TO HEAR FROM YOU!**

*Click on the gray bars to respond.*

Did you attend the January 21 Code and Policy Update Workshop? ☒ Yes ☐ No

If so, was the workshop informative? ☒ Yes ☐ No

Did you feel that your concerns were heard and/or recorded? ☒ Yes ☐ No

1. What is currently working well with the ECA regulations? What is not working as well?

OK: DCLU/DPD sponsored education programs, such as the slide hazard workshops, answer people's questions in helpful and knowledgeable ways.

NOT OK: Interdepartmental Relations (DPD administering permits needed by SPU/PRD)—a serious problem. DPD is faced with regulating another department—actually the lower echelons of the other department that are not properly managed. That lower staff does not understand the regulations, and actually, there is a feeling in the other department that they do not have to follow the rules.

NOT OK: Blatant violations of the Public Disclosure Act by low to mid SPU staff.

NOT OK: Lack of application of Best Available Science. Low SPU staff has a "choice" of whether to consult the real scientist on staff—but rather acts from their own limited knowledge. The ECA must be based on scientific fact.

2. What has been your experience with the ECA regulations (e.g., participated in the permit process, observed problems, etc.)? How have you been personally affected by the ECA regulations?

a. We filed an appeal to a SEPA DNS, part of which was based on intended violations of the ECA regulations by SPU and Parks. The SPU project manager testified under oath that she did not understand SEPA. Regarding the ECA regulations, her testimony indicated a belief that once granted an exemption they could do what they wanted.

b. Prior to our appeal, we faced a series of blatant violations of the Public Disclosure by both SPU low staff and some supervision as obstacles to our appeal. Such meddling cannot be tolerated.

c. There are ambiguities in the ECA regulations that allow others to make up their own interpretation. Of course, ambiguities require interpretation, which in itself may not be consistent.

d. The product of this program will be an amended code. Specifics for such amendments cannot be addressed very well in this questionnaire format. More detailed suggestions will follow under separate cover.

3. How can we improve protection of critical area functions and values while allowing reasonable development opportunities?

PROBLEM 1: The ECA treats private development differently than City agency projects—this is unequal treatment which has its own legal implications. The remedy is to amend the Code to eliminate the offending provisions. Above all, the City should operate under a higher standard rather than a privileged standard.

PROBLEM 2: Resource versus Hazard. The ECA addresses sensitive areas that are resources that are in need of protection and preservation. The ECA also addresses critical areas that pose hazards where assuring safety is

paramount. The existing ECA does not make that distinction—but rather appears to be written with a mind-set of "preserving" the hazard to the point of not considering other valid approaches to assuring safety.

PROBLEM 3: The ESA 4d Rule is not understood and not adequately implemented in Seattle creeks. Also, there is a disconnect between one branch of the City removing fish passage barriers and programming to remove barriers (a significant financial commitment) and another branch by not even considering the implications of those barrier removals in terms of fish.

Similar to my response to Question 2, I will follow with more detail, including code language to address all three Problem areas.

4. How can incentives for property owners enhance protection of environmentally critical areas? What incentives should be available for ECA protection?

There are a myriad of pressures in the City in its attempts to comply with the GMA—especially housing/development goals. Those owning sensitive lands (both resource and hazards) are caught between the pressures to develop and, in our case, not wanting to develop. Non-development ought to be a valid goal without threat of interference by PRD under the guise of "preservation".

One approach to "non-development" in ECA areas could be to allow the sale of "development rights" whereby the density sold could be added where all of the infrastructure exists. A possible new variation could be some form of land banking to allow for future sale of development rights. These methods require legislative action by the City Council, but are directly related to the ECA.

More on this will follow under separate cover.

(Optional) If you have questions about the Environmentally Critical Areas Update Process, please include your contact information:

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***Please save an electronic copy of your completed form.***

To return the form, attach the file to a new e-mail message addressed to [Miles.Mayhew@seattle.gov](mailto:Miles.Mayhew@seattle.gov)  
\*or\* print the form and FAX it (206) 233-7883, ATTN: Miles Mayhew.

*Please return comments by Monday, February 2.*